



# House of Representatives

General Assembly

**File No. 625**

*January Session, 2013*

House Bill No. 5896

*House of Representatives, April 24, 2013*

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT REQUIRING STATE AGENCIES TO CITE SPECIFIC STATUTORY AND REGULATORY AUTHORITY FOR THEIR ACTIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-179 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) When, in an agency proceeding, a majority of the members of the  
4 agency who are to render the final decision have not heard the matter  
5 or read the record, the decision, if adverse to a party, shall not be  
6 rendered until a proposed final decision is served upon the parties,  
7 and an opportunity is afforded to each party adversely affected to file  
8 exceptions and present briefs and oral argument to the members of the  
9 agency who are to render the final decision.

10 (b) A proposed final decision made under this section shall be in  
11 writing and contain a statement of the reasons for the decision and a  
12 finding of facts and conclusion of law on each issue of fact or law

13 necessary to the decision, including the specific provisions of the  
14 general statutes or of regulations adopted by the agency upon which  
15 the agency bases its findings.

16 (c) Except when authorized by law to render a final decision for an  
17 agency, a hearing officer shall, after hearing a matter, make a proposed  
18 final decision.

19 (d) The parties and the agency conducting the proceeding, by  
20 written stipulation, may waive compliance with this section.

21 Sec. 2. Subsection (c) of section 4-180 of the general statutes is  
22 repealed and the following is substituted in lieu thereof (*Effective*  
23 *October 1, 2013*):

24 (c) A final decision in a contested case shall be in writing or orally  
25 stated on the record and, if adverse to a party, shall include the  
26 agency's findings of fact and conclusions of law necessary to its  
27 decision, including the specific provisions of the general statutes or of  
28 regulations adopted by the agency upon which the agency bases its  
29 decision. Findings of fact shall be based exclusively on the evidence in  
30 the record and on matters noticed. The agency shall state in the final  
31 decision the name of each party and the most recent mailing address,  
32 provided to the agency, of the party or his authorized representative.  
33 The final decision shall be delivered promptly to each party or his  
34 authorized representative, personally or by United States mail,  
35 certified or registered, postage prepaid, return receipt requested. The  
36 final decision shall be effective when personally delivered or mailed or  
37 on a later date specified by the agency.

38 Sec. 3. Subsection (c) of section 4-182 of the general statutes is  
39 repealed and the following is substituted in lieu thereof (*Effective*  
40 *October 1, 2013*):

41 (c) No revocation, suspension, annulment or withdrawal of any  
42 license is lawful unless, prior to the institution of agency proceedings,  
43 the agency gave notice by mail to the licensee of facts or conduct which

44 warrant the intended action and the specific provisions of the general  
 45 statutes or of regulations adopted by the agency that authorize such  
 46 intended action, and the licensee was given an opportunity to show  
 47 compliance with all lawful requirements for the retention of the  
 48 license. If the agency finds that public health, safety or welfare  
 49 imperatively requires emergency action, and incorporates a finding to  
 50 that effect in its order, summary suspension of a license may be  
 51 ordered pending proceedings for revocation or other action. These  
 52 proceedings shall be promptly instituted and determined.

53 Sec. 4. (NEW) (*Effective October 1, 2013*) (a) For purposes of this  
 54 section, "state agency" means any department, board, council,  
 55 commission, institution or other executive branch agency of state  
 56 government and "business entity" means a corporation, association,  
 57 partnership, limited liability company or any other similar form of  
 58 business organization.

59 (b) Notwithstanding any provision of the general statutes,  
 60 whenever any state agency (1) acts on any application, petition or  
 61 request by an individual or business entity for a permit, license,  
 62 approval or other permission to conduct any business activity or use of  
 63 private property, (2) restricts or imposes a condition on any business  
 64 activity or use of private property, or (3) brings an enforcement action,  
 65 issues a cease and desist order or otherwise requests an individual or  
 66 business entity to modify or stop any business activity or use of private  
 67 property, such state agency shall provide to any such affected  
 68 individual or business entity, upon request, the specific provision of  
 69 the general statutes or regulations adopted by such agency or general  
 70 permit that authorizes such state agency's action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	4-179
Sec. 2	<i>October 1, 2013</i>	4-180(c)
Sec. 3	<i>October 1, 2013</i>	4-182(c)
Sec. 4	<i>October 1, 2013</i>	New section

**GAE**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill requires an agency making certain decisions in Uniform Administrative Procedures Act (UAPA) proceedings to specify the statute or regulation that authorizes its action. The bill also requires all state agencies taking certain types of regulatory actions to cite the authority for the action upon request. These provisions have no fiscal impact on the state or municipalities.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****HB 5896*****AN ACT REQUIRING STATE AGENCIES TO CITE SPECIFIC STATUTORY AND REGULATORY AUTHORITY FOR THEIR ACTIONS.*****SUMMARY:**

This bill requires an agency making certain decisions in Uniform Administrative Procedure Act (UAPA) proceedings to specify the statute or regulation authorizing its action.

The bill also requires an agency to disclose, upon the request of an affected party, the statute, regulation, or general permit that authorizes its action impacting a business activity or the use of private property.

EFFECTIVE DATE: October 1, 2013

**DECISIONS UNDER UAPA**

The bill requires state agencies acting pursuant to UAPA to cite the specific statutes or regulations:

1. upon which the agency bases its findings in a proposed final decision;
2. upon which the agency bases its decision in a contested case; and
3. that authorize license revocation, suspension, annulment, or withdrawal, when giving notice to a licensee prior to instituting a proceeding.

**DECISIONS AFFECTING BUSINESS ACTIVITIES OR USE OF PRIVATE PROPERTY**

The bill requires state agencies taking specific types of regulatory

actions to cite the statute, regulation, or general permit that authorizes their action, if requested by the person or business affected by the action. The agencies must do this when:

1. acting on an individual's or business entity's application, petition, or request for a permit, license, approval, or other permission to conduct a business activity or use private property;
2. restricting or imposing conditions on a business activity or use of private property; or
3. bringing an enforcement action, issuing a cease and desist order, or otherwise requesting a stop or change in a business activity or use of private property.

The bill does not specify a deadline by which agencies must respond to such a request.

The bill defines "state agency" as any department, board, council, commission, institution, or state government executive branch agency. "Business entities" are corporations, associations, partnerships, limited liability companies, and other business organizations of a similar form.

## **BACKGROUND**

### ***Related Bill***

SB 1006, reported favorably by the Commerce Committee, also requires agencies, upon request, to cite authority for regulatory actions involving business activities or use of private property.

## **COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 14      Nay 0      (04/05/2013)